SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 1168

ALBERT C. DULANEY,

Petitioner,

vs.

M. COPPARD, TRUSTEE,

Respondent

MOTION FOR REHEARING AFTER DENIAL OF PETITION FOR WRIT OF CERTIORARI

PROCEDURE

Under the Article "Certiorari" in the 14th Volume Corpus Juris Segundum 230 e.

REHEARING

Rehearing on the judgment refusing the writ will be granted only for good cause and on application seasonably made.

This motion or application is seasonably made because Petitioner herein has not yet received official notice that Petition for Writ of Certiorari has been denied. The information has come to him in another way; that good cause is shown will be found out by reading this motion.

The Petition for Writ of Certiorari should certainly be granted by this Court because the Respondent herein in his brief admits the soundness of a legal proposition set out in Collier on Bankruptcy, 14th Ed., Vol. II, Page 1594, thereby admitting the soundness of the proposition which is set out in Collier at the place stated in the following words, "REASONABLE NOTICE AND A RIGHT TO BE HEARD ARE REQUISITE TO THE VALIDITY OF ANY ORDER ISSUED BY THE REFEREE."

In this matter there was printed, but apparently was not read in considering Petition for Writ of Certiorari, a reply brief to Respondent's brief as to Petition for Writ of Certiorari. On Page 5 of Respondent's brief a statement is made that Petitioner has cited no case, holding on similar facts, that due process has been denied. After running through 14 editions Collier has gathered together many cases, all of which sustain the correct statement of the law found in Collier on Bankruptcy, 14th Ed., Vol. II, Page 1594, many of which hold on similar facts that due process has been denied, the principle involved being of universal application and its soundness cannot be successfully questioned by anyone. Due process of law requires that every step in a judicial proceeding and before a referee in bankruptcy must be after a reasonable notice, a right to be heard, with every litigant having his day in court, or any such proceeding is void. Petitioner herein moves, therefore, that a rehearing be given to Petitioner herein upon his Petition for Writ of Certiorari considering said reply brief above referred to in this motion because since Respondent and Respondent's Attorney in brief of respondent say nothing about reasonable notice and a right to be heard are requisite to the validity of any order issued by the referee, there is a definite admission that the proposition is correct, the many cases cited in Collier supporting the text showing that a vital principle of constitutional

law, to-wit; due process of law requires referee's order in controversy in this Petition for Writ of Certiorari is to be held void because of the absence of notice and with no opportunity to be heard.

WHEREFORE, premises considered, Petitioner prays that a rehearing herein be granted and after this Court, or some judge thereof designated for the purpose, shall have considered Petitioner's reply brief and this motion, the Petition for Writ of Certiorari will be granted so that the important and vital principles of constitutional law involved which so disastrously affect the rights of people whose assets and funds are being handled by Petitioner, most of whom are defenseless women, one being at death's door and needing her assets and funds to save her life, and finally Petitioner prays for all proper relief under this said motion.

ALBERT C. DULANEY,
Petitioner herein,
803 Brady Building,
San Antonio 5, Texas.